

REMARKS

I. Formal Matters

Claims 1-3, 7-10, 16 and 18 are all the claims pending in the present Application. By this Amendment, Applicant editorially amends claims 1-3, 7-10, 16 and 18. The amendments to claims 1-3, 7-10, 16 and 18 were made for reasons of clarity and precision of language. Additionally, Applicant hereby cancels claims 4, 11, 14, 15, 17 and 19.

Applicant thanks the Examiner for acknowledging the receipt of priority documents submitted under 35 U.S.C. 119(a)-(d). Applicant also thanks the Examiner for acknowledging the drawings filed on June 26, 2003.

II. Claim Rejections Under 35 U.S.C. § 102

The Examiner has rejected claims 1-19 under 35 U.S.C. § 102(e) as allegedly being anticipated by Park et al. (U.S. Patent No. 6,625,094). Applicant respectfully disagrees.

With respect to claim 1, Park fails to disclose, or even suggest, at least “a recording position determining device for **determining, on the basis of the defect information, whether or not the new data is recorded at the position of the defect**, when the new data is recorded into the rewritable recording medium.” In other words, in one exemplary embodiment, new data may initially be written at the position of the defect. Next, according to this exemplary embodiment, if the recording position determining device determines that the new data is recorded at the position of the defect, the new data recorded at the position of the defect is read and the alternative recording device records the read data into the spare area of the rewritable recording medium.

Instead, Park teaches that data is not written into an area containing a defect.

Specifically, Park teaches “generating the write command such that data is **not written on the**

defective areas when the information on the defective area is returned.” (See Col. 4, ll. 41-43).

To clarify, the “information on the defective area” in Park corresponds to “positional information.” (See Col. 4, ll. 46-51). In other words, **the device in Park “excludes defective areas before writing the data when a real time data is provided.”** (Col. 4, ll. 20-25, see also Step 508 in FIG. 5 “Write data while skipping the defective area”).

For at least this reason, Applicant respectfully asserts that claim 1 is not anticipated by the cited art of record.

With regard to claims 2-6, these claims depend from independent claim 1. As such, Applicant respectfully asserts that claims 2-6 are allowable at least by virtue of their dependency from claim 1.

With regard to independent claims 7, 9, 16 and 18, Applicant respectfully asserts that these claims are allowable at least for reasons analogous to those recited with respect to claim 1.

With respect to claim 8, this claim depends from independent claim 7. As such, this claim is allowable at least by virtue of its dependency from claim 7. With respect to claims 10-13, these claims depend from independent claim 9. As such, these claims are allowable at least by virtue of their dependency from claim 9.

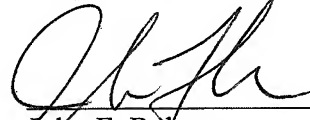
III. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

This Application is being filed via the USPTO Electronic Filing System (EFS).
Applicant herewith petitions the Director of the USPTO to extend the time for reply to the

above-identified Office Action for an appropriate length of time if necessary. Any fee due under 37 U.S.C. § 1.17(a) is being paid via the USPTO Electronic Filing System (EFS). The USPTO is also directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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